

MINUTES
REGULAR MEETING OF THE CITY COUNCIL
CITY OF MEMPHIS
May 7, 2013

3:30 P.M. SCHEDULED SESSION

3:30 P.M. MEETING COMMENCED

ROLL CALL: William Boyd, Joe Brown, Harold Collins, Kemp Conrad, Shea Flinn, Janis Fullilove, Wanda Halbert, Lee Harris, Reid Hedgepeth, Myron Lowery, Bill Morrison, Jim Strickland and Chairman Edmund H. Ford, Jr.

**THE MEETING WAS CALLED TO ORDER
BY SERGEANT-AT-ARMS**

INVOCATION

The meeting was opened with prayer by Rev. Haywood Peter Brown, from Mt. Lebanon Baptist Church. Councilman Brown presented Rev. Brown with a certificate naming him Chaplain of the day.

These minutes record the agenda items and the action taken by the Council on such items. The full text of the original of the ordinances, resolutions and supporting documents, including an audio recording of Council's deliberations are filed and maintained in the office of Council Records/Records Management, Room 2B-08. The original ordinances and/or resolutions adopted by the Council shall control in the event of any conflict between the description in these minutes and the original documents, ordinances and/or resolutions.

MINUTES

Approval of the Minutes of the regular meeting of April 16, 2013 with the following motion:

MOTION: Strickland
SECOND: Collins
AYES: Boyd, Brown, Collins, Flinn, Fullilove, Halbert, Harris, Hedgepeth, Strickland and Chairman Ford
Conrad, Lowery and Morrison did not cast a vote

APPROVED, as amended (Item#15 was reconsidered and pulled from the Minutes, without objection)

6. **RESOLUTION APPROVING A SPECIAL USE PERMIT LOCATED AT 5963 KNIGHT ARNOLD ROAD; 408 FEET WEST TO HICKORY HILL ROAD, CONTAINING 1.43 ACRES IN THE CMU-1 (COMMERCIAL MIXED USE) DISTRICT.**

Case No. SUP 13-210

Held until May 21, 2013

28. **ORDINANCE AMENDING CHAPTER 21, CODE OF ORDINANCES, CITY OF MEMPHIS, SO AS TO ESTABLISH AN ENVIRONMENTAL FEE, UP FOR T H I R D AND F I N A L READING. (HELD FROM 9/4; 1/8; 3/5; 3/19)**

Ordinance No. 5456

Held until July 16, 2013

29. **ORDINANCE TO AMEND CABLE FRANCHISE ORDINANCE NO. 5331 TO BE CONSISTENT WITH COUNCIL'S AUTHORITY AND INTENT, UP FOR T H I R D AND F I N A L READING. (HELD FROM 10/2; 11/6; 12/4; 12/18; 1/8; 1/22)**

Ordinance No. 5473

DROPPED

1. **RESOLUTION SUPPORTING THE WORK OF FRIENDS FOR LIFE TO INSURE HIV/AIDS PATIENTS HAVE ADEQUATE HOUSING AND MEDICAL SERVICES.**

MOTION: Collins
SECOND: Brown

APPROVED, unanimous voice vote

2. **RESOLUTION APPROVING A PLANNED DEVELOPMENT LOCATED ON THE EAST SIDE OF SUMMER AVENUE, +/-1,047 FEET NORTH OF THE INTERSECTION WITH SYCAMORE VIEW ROAD, CONTAINING 24.61 ACRES IN THE FLETCHER CREEK OFFICE PARK PLANNED DEVELOPMENT, AREA A AND B.**

Case No. PD 13-303

Applicant: Shui K. Shen
The Reaves Firms, Inc. – Representative

Request: Amend the planned development to permit Golf Driving Range and related amenities

LUCB and OPD recommendation: APPROVAL, with conditions

MOTION: Collins
SECOND: Fullilove
AYES: Boyd, Brown, Collins, Fullilove, Harris, Hedgepeth, Lowery, Morrison,
Strickland and Chairman Ford
Conrad, Flinn and Halbert did not cast a vote

APPROVED

3. **RESOLUTION APPROVING A PLANNED DEVELOPMENT LOCATED ON THE SOUTHEAST SIDE OF LENOW ROAD; +/-581 FEET SOUTHWEST OF DEXTER ROAD, CONTAINING 19.30 ACRES IN AN AREA CURRENTLY GOVERNED BY GARDENS OF GRAY'S CREEK OUTLINE PLAN (P.D. 03-351CC).**

Case No. PD 13-306cc

Applicant: Regency Homebuilders, LLC
Kevin Hyneman Companies, Inc. – Representative

Request: Plan amendment to allow multi-family apartment units in
accordance with Residential Urban (RU-3) District within the Outline Plan

LUCB and OPD recommendation: APPROVAL, with conditions

MOTION: Collins
SECOND: Strickland
AYES: Boyd, Brown, Collins, Flinn, Fullilove, Halbert, Harris, Hedgepeth, Lowery,
Strickland and Chairman Ford
Conrad and Morrison did not cast a vote

APPROVED, as amended

4. **RESOLUTION APPROVING A PLANNED DEVELOPMENT LOCATED AT 7799 TRINITY ROAD, SOUTH OF TRINITY ROAD; 390 FEET WEST OF TRINITY CREEK, CONTAINING 30.13 ACRES IN THE HEAVY INDUSTRIAL (I-H) DISTRICT.**

Case No. PD 13-311

(Parks Edge)

Applicant: Shelby Farms Apartments
Solomito Land Planning (Brenda Solomito) – Representative

Request: Commercial Planned Development for apartments

LUCB and OPD recommendation: APPROVAL, with conditions

MOTION: Collins
SECOND: Fullilove
AYES: Boyd, Brown, Collins, Flinn, Fullilove, Halbert, Harris, Hedgepeth, Lowery,

Strickland and Chairman Ford
Ford and Morrison did not cast a vote

APPROVED

5. **RESOLUTION APPROVING A PLANNED DEVELOPMENT LOCATED AT 3028 CARNES AVENUE, CONTAINING 0.27 ACRE IN THE RU-7 DISTRICT.**

Case No. PD 13-312

Applicant: Neighborhood Christian Center
SR Consulting – Representative

Request: Women's Resource Center

LUCB and OPD recommendation: APPROVAL, with conditions

MOTION: Collins

SECOND: Fullilove

AYES: Boyd, Brown, Collins, Flinn, Fullilove, Halbert, Harris, Lowery, Strickland and
Chairman Ford
Conrad, Hedgepeth and Morrison did not cast a vote

APPROVED

**CONSENT AGENDA – Items 7 – 16 & Items #37, #38 & #39 may be acted upon by one motion:
SEE PAGE 2574 FOR ROLL CALL**

7. **ORDINANCE TO AMEND TITLE 11 – VEHICLES AND TRAFFIC, CHAPTER 11-8 ADMINISTRATION AND ENFORCEMENT OF THE CODE OF ORDINANCES, CITY OF MEMPHIS, UP FOR F I R S T READING.**

Ordinance No. 5507

APPROVED, on First reading

8. **ORDINANCE TO AMEND SECTION 25-185 OF THE CODE OF ORDINANCES, CITY OF MEMPHIS, TO BAN PENSION DOUBLE DIPPING, UP FOR F I R S T READING.**

Ordinance No. 5508

APPROVED, on First reading

9. **ORDINANCE ESTABLISHING THE FISCAL YEAR 2014 OPERATING BUDGET FOR THE CITY OF MEMPHIS, UP FOR F I R S T READING.**

Ordinance No. 5509

APPROVED, on First reading

10. **ORDINANCE TO FIX THE TAX RATE OF THE CITY OF MEMPHIS FOR FISCAL YEAR 2014, UP FOR F I R S T READING.**

Ordinance No. 5510

APPROVED, on First reading

11. **ORDINANCE TO AMEND TITLE 3 – PERSONNEL, CHAPTERS 3-8 CIVIL SERVICE AND 3-12 CIVIL SERVICE COMMISSION OF THE CODE OF ORDINANCES, CITY OF MEMPHIS, UP FOR F I R S T READING.**

Ordinance No. 5511

APPROVED, on First reading

12. **ORDINANCE TO AMEND THE CHARTER OF THE CITY OF MEMPHIS, SAME BEING CHAPTER 11 OF THE ACTS OF 1879, AS AMENDED, PURSUANT TO THE PROVISIONS OF ARTICLE 11, SECTION 9 OF THE CONSTITUTION OF THE STATE OF TENNESSEE (HOME RULE AMENDMENT), SO AS TO IMPROVE THE EFFECTIVENESS OF CIVIL SERVICE HEARINGS AND TO SUBMIT THE PROPOSED REFERENDUM ORDINANCE TO THE QUALIFIED VOTERS OF THE CITY OF MEMPHIS AT THE FIRST GENERAL STATE ELECTION TO BE HELD NOVEMBER 5, 2013, UP FOR F I R S T READING.**

Ordinance No. 5512

APPROVED, on First reading

13. **ORDINANCE TO AMEND CHAPTER 21, ARTICLE II, SECTION 21-50(D), OF THE CODE OF ORDINANCES, CITY OF MEMPHIS TO DISCONTINUE FUNDING FROM TRAFFIC VIOLATIONS CITATIONS TO THE MEMPHIS CITY SCHOOLS DRIVER EDUCATION PROGRAM, UP FOR S E C O N D READING.**

Ordinance No. 5505

APPROVED, on Second reading

14. **ORDINANCE TO AMEND CHAPTER 2, CODE OF ORDINANCES, CITY OF MEMPHIS, BY AMENDING SECTION 2-228 (ASPHALTIC BINDER PAVING OF STREETS CONSTRUCTED AS PART OF STANDARD IMPROVEMENT CONTRACTS; COSTS.), UP FOR S E C O N D READING.**

Ordinance No. 5506

APPROVED, on Second reading

15. **RESOLUTION APPROVING FINAL PLAT OF WAVERLY PLANTATION II, P.D., PHASE 3.**

Case No. PD 99-307cc

Resolution approves the final plat located north of Waverly Farms Road at Raleigh Millington Road. Cost of the required improvements to be borne by the developer. This action is subject to County approval.

City Engineer recommends approval

APPROVED

16. NOTATIONS FROM LAND USE CONTROL BOARD THAT THE FOLLOWING CASES WERE HEARD AND RECOMMENDATION MADE REQUESTING A DATE OF PUBLIC HEARING:

- A. Case No. PD 13-305 – I-55/Hudgins Road P.D.
- B. Case No. PD 13-309 – Natural Learning School P.D.
- C. Case No. PD 13-310 – MSM P.D.

Public Hearing Date Set for May 21, 2013

37. ORDINANCE TO AMEND CHAPTER 9-12 OF THE MEMPHIS CODE OF ORDINANCES TO ADJUST THE ANNUAL STATIONARY SOURCES EMISSIONS FEE AMOUNT, TO ESTABLISH A MINIMUM EMISSIONS FEE FOR ANY SOURCE SUBJECT TO TITLE V MAJOR SOURCE REGULATIONS UNDER THE CLEAN AIR ACT OF 1990 AND TO ADJUST OTHER SCHEDULED FEES FOR INFLATION AND PROGRAM COST INCREASES, UP FOR F I R S T READING.

Ordinance No. 5513

APPROVED, on First reading

38. ORDINANCE TO AMEND THE SANITARY SEWER FEE TO REDUCE THE RESIDENTIAL MAXIMUM SEWER CHARGE FROM \$50.00 PER MONTH TO \$35.00 PER MONTH DURING THE MONTHS OF JUNE, JULY, AUGUST AND SEPTEMBER FOR A SEASONAL ADJUSTMENT TO THE SEWER FEE DUE TO THE INCREASED SEWER VOLUMETRIC CHARGES AND WATER CONSUMPTION LEVELS RESULTING FOR THOSE RESIDENTIAL CUSTOMERS THAT IRRIGATE THEIR LAWNS AND PLANTS WITH METERED WATER THAT DOES NOT ENTER THE SANITARY SEWER SYSTEM, UP FOR F I R S T READING.

Ordinance No. 5514

APPROVED, on First reading

39. ORDINANCE TO TRANSFER OWNERSHIP OF THE CITY'S STREET LIGHTS WITHIN THE CITY LIMITS TO THE MEMPHIS LIGHT, GAS AND WATER DIVISION AND TO ASSIGN THE FUNCTION OF OPERATING AND MAINTAINING STREET LIGHTS WITHIN THE CORPORATE LIMITS OF THE CITY AND AUTHORIZING THE BOARD OF COMMISSIONERS OF THE MEMPHIS LIGHT, GAS AND WATER DIVISION TO MAKE A SCHEDULE OF RATES FOR STREET

**LIGHTING FOR APPROVAL BY COUNCIL IN ACCORDANCE WITH SECTION 680
OF THE CHARTER, UP FOR F I R S T READING.**

Ordinance No. 5515

APPROVED, on First reading

ROLL CALL CONSENT ITEMS

MOTION: Morrison

SECOND: Collins

AYES: Boyd, Brown, Collins, Flinn, Fullilove, Halbert, Harris, Hedgepeth, Lowery,
Morrison, Strickland and Chairman Ford
Conrad did not cast a vote

APPROVED

MLGW FISCAL CONSENT – Items 17 – 22 & 24 - 27 may be acted upon by one motion:

17. **RESOLUTION AWARDDING CONTRACT TO DIAMOND INTERNATIONAL FOR CAB AND CREW CAB AND CHASSIS, IN THE FUNDED AMOUNT OF \$671,644.00.**

APPROVED

18. **RESOLUTION AWARDDING CONTRACT TO SCRUGGS EQUIPMENT COMPANY,INC. FOR THE PURCHASE OF STEEL UTILITY SERVICE BODIES, IN THE AMOUNT OF \$112,225.00.**

APPROVED

19. **RESOLUTION APPROVING INVOICE PAYMENT TO THE CITY OF MEMPHIS FOR THE 2012 BACKWASH DISCHARGE IN THE AMOUNT OF \$404,055.18.**

APPROVED

20. **RESOLUTION AWARDDING A TWELVE (12) MONTH BLANKET CONTRACT, FOR CABLE, TO WESCO DISTRIBUTION IN THE AMOUNT OF \$492,378.00.**

APPROVED

21. **RESOLUTION AWARDDING CONTRACT NO. 11554, MAINTENANCE AND SECURITY AUTOMATION SERVICE AGREEMENT, TO ACCESS CONTROL INTEGRATION (ACI), IN THE FUNDED AMOUNT OF \$250,000.00.**

APPROVED

22. **RESOLUTION AWARDING CONTRACT TO SCOTT CONSTRUCTION EQUIPMENT, LLC, FOR A 60-TON HYDRAULIC MOBILE CRANE, IN THE FUNDED AMOUNT OF \$604,279.85.**

APPROVED

23. **RESOLUTION APPROVING THE OPTION TO RENEW THE CONTRACT WITH PENCCO, INC. FOR THE FIRST OF TWO TWELVE-MONTH RENEWALS TERMS FOR FLUROSILICIC ACID IN THE AMOUNT OF \$609,000.00.**

Held until May 21, 2013

24. **RESOLUTION APPROVING TO RATIFY THE ISSUANCE OF PURCHASE ORDER NUMBERS 147906 IN THE AMOUNT OF \$41,218.00 AND 147908 IN THE AMOUNT OF \$26,675.00 TO NESCO SALES AND RENTALS IN THE TOTAL AMOUNT OF \$67,893.00, FOR THE RENTAL OF EQUIPMENT FOR A SIX (6) MONTH PERIOD.**

APPROVED

25. **RESOLUTION AWARDING A SIXTY MONTH BLANKET CONTRACT TO DELL MARKETING L.P., FOR MICROSOFT SOFTWARE AND LICENSES AS NEEDED, IN THE AMOUNT OF \$1,565,364.91.**

APPROVED

26. **RESOLUTION AWARDING A CONTRACT TO ADVIZEX TECHNOLOGIES IN THEAMOUNT OF \$3,583,680.66 FOR ORACLE SOFTWARE SOLUTIONS. THE REQUEST WILL COVER THE PURCHASE OF ORACLE DATABASE AND MIDDLEWARE SOFTWARE WHICH IS REQUIRED FOR THE DEPLOYMENT OF PROJECT INSPIRE.**

APPROVED

27. **RESOLUTION AWARDING A FORTY-EIGHT MONTH CONTRACT TO BELL AND HOWELL, LLC, FOR ANNUAL MAINTENANCE ON THE BOWE BELL HOWELL BH3500 UTILITY BILL INSERTER, IN THE AMOUNT OF \$228,480.84.**

APPROVED

MLGW ROLL CALL CONSENT ITEMS

MOTION: Fullilove
SECOND: Hedgepeth
AYES: Boyd, Collins, Flinn, Fullilove, Halbert, Harris, Hedgepeth, Lowery, Morrison, Strickland and Chairman Ford
Brown and Conrad did not cast a vote

APPROVED, as amended

30. **RESOLUTION AUTHORIZING THE ISSUANCE OF NOT TO EXCEED FORTY SIX MILLION DOLLARS (\$46,000,000.00) PRINCIPAL AMOUNT OF SANITARY SEWAGE SYSTEM REVENUE REFUNDING BONDS, SERIES 2013 OF THE CITY OF MEMPHIS, TENNESSEE FOR THE PURPOSE OF REFUNDING CERTAIN OUTSTANDING SANITARY SEWAGE SYSTEM REVENUE BONDS.**

MOTION: Strickland

SECOND: Boyd

AYES: Boyd, Brown, Collins, Flinn, Fullilove, Halbert, Hedgepeth, Lowery, Morrison, Strickland and Chairman Ford
Conrad and Harris did not cast a vote

APPROVED

31. **RESOLUTION APPROVING THE PROPOSED CONSOLIDATED PLAN/FY 2014 ANNUAL ACTION PLAN AND APPROPRIATING \$14,236,192.78 IN FEDERAL ENTITLEMENT FUNDS FROM THE U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT.**

MOTION: Brown

SECOND: Fullilove

AYES: Brown, Collins, Flinn, Fullilove, Halbert, Harris, Hedgepeth, Lowery, Morrison and Chairman Ford
Brown, Conrad and Strickland did not cast a vote

APPROVED

40. **RESOLUTION ALLOWING THE DIVISION OF POLICE SERVICES TO ACCEPT GRANT FUNDS IN THE AMOUNT OF \$72,263.00 FROM THE SHELBY COUNTY DISTRICT ATTORNEY GENERAL'S OFFICE THROUGH THE U. S. DEPARTMENT OF JUSTICE.**

MOTION: Strickland

SECOND: Boyd

AYES: Boyd, Brown, Collins, Flinn, Fullilove, Halbert, Harris, Hedgepeth, Lowery, Morrison, Strickland and Chairman Ford
Conrad did not cast a vote

APPROVED

41. **RESOLUTION APPROVING THE CITY OF MEMPHIS TO TERMINATE ITS ANNUAL TAX LEVY OF 2¢ PER \$100 OF ASSESSED VALUATION OR APPROXIMATELY \$1,500,000.00 FOR THE CITY'S FISCAL YEAR 2013 AND FOR EACH FISCAL YEAR THEREAFTER, WHICH HAD PREVIOUSLY BEEN**

COMMITTED TO PAY MCS' ANNUAL DEBT SERVICE ON AN ENERGY MODIFICATION LOAN.

MOTION: Flinn
SECOND: Fullilove
AYES: Boyd, Brown, Collins, Flinn, Fullilove, Halbert, Hedgepeth, Lowery and Strickland
NAY: Harris
Morrison and Chairman Ford recused
Conrad did not cast a vote

APPROVED

32. **RESOLUTION ACCEPTING A SUB-GRANT AWARD FROM THE SHELBY COUNTY SHERIFF'S OFFICE ON BEHALF OF THE DIVISION OF POLICE SERVICES IN THE AMOUNT OF \$48,899.00 FOR THE PURPOSE OF CONTINUING THE FEDERAL "HIGH INTENSITY DRUG TRAFFICKING AREAS" PROGRAM (HIDTA).**

MOTION: Strickland
SECOND: Morrison
AYES: Boyd, Brown, Collins, Flinn, Fullilove, Halbert, Harris, Hedgepeth, Lowery, Morrison, Strickland and Chairman Ford
Conrad did not cast a vote

APPROVED

33. **RESOLUTION APPROPRIATING \$817,012.00 FOR BRIDGE SCOUR REPAIRS AT VARIOUS LOCATIONS.**

MOTION: Hedgepeth
SECOND: Boyd
AYES: Boyd, Brown, Collins, Conrad, Flinn, Fullilove, Harris, Hedgepeth, Lowery, Morrison, Strickland and Chairman Ford
Halbert did not cast a vote

APPROVED

34. **RESOLUTION APPROPRIATING \$149,662.00 FOR INSTALLATION OF RAISED MEDIAN AT DELLWOOD AVENUE.**

MOTION: Lowery
SECOND: Boyd
AYES: Boyd, Brown, Conrad, Fullilove, Harris, Hedgepeth, Lowery, Morrison, Strickland and Chairman Ford
Collins and Halbert abstained
Flinn did not cast a vote

APPROVED

35. **RESOLUTION ACCEPTING GRANT FUNDS FROM THE TENNESSEE STORMWATER ASSOCIATION FOR THE DIVISION OF PUBLIC WORKS STORMWATER PROGRAM TO INSTALL RAIN GARDENS AT THREE CITY SCHOOLS. RESOLUTION ALSO AMENDS THE FY 2013 OPERATING BUDGET TO ESTABLISH AND APPROPRIATE \$25,180.00 IN GRANT FUNDS.**

MOTION: Hedgepeth
SECOND: Boyd
AYES: Boyd, Brown, Collins, Conrad, Flinn, Fullilove, Halbert, Harris, Hedgepeth, Lowery, Morrison, Strickland and Chairman Ford

APPROVED

36. **RESOLUTION AMENDING THE FY 2013 OPERATING BUDGET BY ACCEPTING AND APPROPRIATING \$1,566,415.00 IN STP GRANT FUNDS AWARDED BY THE FEDERAL HIGHWAY ADMINISTRATION THROUGH THE TENNESSEE DEPARTMENT OF TRANSPORTATION TO THE DIVISION OF ENGINEERING FOR THE STP TRAFFIC SIGNAL COORDINATION PROJECT EN90022.**

MOTION: Hedgepeth
SECOND: Boyd
AYES: Boyd, Brown, Collins, Conrad, Flinn, Fullilove, Halbert, Harris, Hedgepeth, Lowery, Morrison, Strickland and Chairman Ford

APPROVED

(Special Item #1 -Councilman Harris made a motion to reconsider Item #15 – RESOLUTION appropriating \$99,312.00 for sewer repair at Cedar Creek Sewer Extension, from the April 16, 2013 Minutes, without objection)

MOTION: Harris
SECOND: Boyd
AYES: Boyd, Conrad, Flinn, Fullilove, Halbert, Harris, Hedgepeth, Lowery, Morrison, Strickland and Chairman Ford
Collins abstained
Brown did not cast a vote

APPROVED, item #15 PASSED

(Special Item #2 – Councilwoman Fullilove made a motion to approve Same Night Minutes for Items #40 & #41 from tonight's meeting, without objection)

MOTION: Fullilove
SECOND: Halbert

AYES: Boyd, Brown, Collins, Conrad, Halbert, Harris, Lowery and Strickland
Morrison and Chairman Ford recused
Flinn, Fullilove and Hedgepeth did not cast a vote

APPROVED

INTRODUCTION OF ITEMS ON MATTERS BY THE GENERAL PUBLIC:

Chairman Ford recognized the following people who spoke from the audience:

Yvonne Burton, 442 Dove Valley, Collierville, Tennessee, 38017
Maria Phelps, 555 Ashbury Cove, Cordova, Tennessee, 38018
Cathie Auxier, 10840 Monterey Forest Cove, Eads, Tennessee, 38028
Donna Bohannon, 5343 Sea Isle, Memphis, Tennessee, 38119
Lee Cochran, 179 Richbriar Street, Memphis, Tennessee, 38120
Walter Broady, III, 4256 Ledbetter Cove, Memphis, Tennessee, 38109

ADJOURNED MEETING AT 4:41 P.M.

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Upon statement of the Chairman, without objection, the meeting was adjourned, subject to the call of the Chairman.

C H A I R M A N

Attest:

Deputy Comptroller/Council Records